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**UNITED STATES COURT OF APPEALS**  
FOR THE THIRD CIRCUIT  
21400 UNITED STATES COURTHOUSE  
601 MARKET STREET  
PHILADELPHIA 19106-1790

25  
2/15/02  
TELEPHONE  
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Middle PA (Harrisburg) Clerk of District Court  
(District)

Date 2/12/02

Bergstresser v. Shannon  
(Caption)

C. of A. No. 01-1356

Dean E. Bergstresser  
(Appellant)

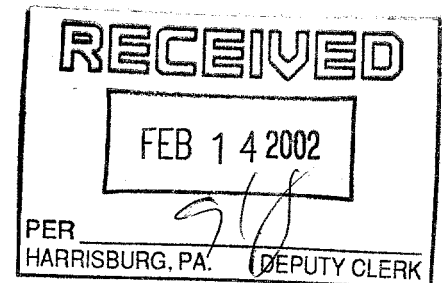
Civil No. 00-cv-01713 (JAS)  
(D.C. No.)

*maggie Anger*

Enclosures:

2/12/02 Certified copy of C. of A. Order by the Court/XXXXX  
(Date)

- \*            Record
- \*            Supplemental Record
- \*            Exhibits
- \*            State Court Record



X Copy of this form to acknowledge receipt and return to C. of A.

           Record not returned at this time until appeal(s) closed at No.(s)           

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           The certified copy of order issued as the mandate on             
is recalled.

*[Signature]*

Case Manager

(267) -299- 4916  
Telephone Number

\*            (267) -299-             
Record Processor Telephone Number

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(Date)

February 11, 2002

**UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

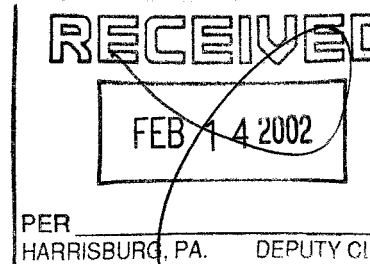
C.A. No. 01-1356

DEAN E. BERGSTRESSER

v.

ROBERT SHANNON, Superintendent, et al.

(M.D. Pa. Civ. No. 00-cv-01713)



Present: SCIRICA, AMBRO and STAPLETON, CIRCUIT JUDGES

Submitted is appellant's petition for rehearing with regard to the denial of his request for a certificate of appealability

in the above-captioned case.

Respectfully,

Clerk

**FILED**  
HARRISBURG, PA.

FEB 14 2002

MARY E. D'AMOREA, CLERK  
Per 510

MMW/SR

ORDER

The foregoing motion is granted. A certificate of appealability is issued with respect to these issues only: whether trial counsel was ineffective in failing to object to the district attorney's improper testimony, whether the Double Jeopardy Clause requires vacatur of the appellant's assault conviction, and whether the inconsistency between the verdicts concerning aggravated assault and involuntary manslaughter deprived the appellant of his right to Due Process.

A True Copy:

By the Court,

Marcia M. Waldron  
Marcia M. Waldron,  
Clerk

Cy Sum  
Circuit Judge

Dated: 12 FEB 2002

AM/cv. PC  
JEL